IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

WP(C).No. 12293 of 2007(L)

PETITIONER:

SELIN P.G., S/O.GANGADHARAN, AGED
40 YEARS, RESIDING AT PARATTU HOUSE,
KUMARAPURAM P.O., PALLIKARA, ERNAKULAM
DISTRICT.

BY ADV. SRI.K.C.ELDHO

RESPONDENTS:

STATE OF KERALA,
REP. BY THE SECRETARY,
LABOUR AND REHABILITATIONS DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY SRI. P. RAMAKRISHNAN
GOVERNMENT PLEADER SRI. I.V. PROMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.12293 OF 2007

DATED THIS THE 10th DAY OF APRIL, 2007

JUDGMENT

The petitioner is aggrieved by Ext.P6 order of the Government by which his appeal against the final determination order passed under the Kerala Motor Transport Workers Welfare Fund Act has been dismissed as time barred. It is settled law as laid down by a Division Bench of this Court that since the Act does not provide for condonation of delay in filing the appeal, the 1st respondent cannot entertain appeals which are filed beyond the period prescribed under the Act for filing such appeals. It is settled law that Article 226 of Constitution of India cannot be invoked to resurrect a time barred claim. In the above circumstances I do not find any merit in the challenge against Ext.P6 order or Ext.P2 final determination order in view of the above legal position. In view of the above position the petitioner seeks permission to pay the amounts due in instalments.

2. I have heard the learned counsel for the petitioner as also the learned standing counsel appearing for the 2nd respondent. In the facts and circumstances of the case, there would be a direction to the 2nd respondent to permit the petitioner to pay off the amounts

demanded as per Exts.P1 and P2 in ten equal monthly instalments starting from 1.5.07. If the petitioner pays the instalments in time further proceedings pursuant to Ext.P1 shall be kept in abeyance. However, if the petitioner commits default in payment of even one instalment respondents 2,4 and 5 would be free to proceed further in accordance with Ext.P1 without having to issue any fresh notice or proceedings in that regard.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd